IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP NO. 1144 Of 2006.

Date of decision: March 28, 2007.

Sai Society of Education. ……. Petitioner.

Vs.

H.P. Board of School Education & others.
……. Respondents.

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The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice Surinder Singh, Judge.

Whether approved for reporting? No

For the petitioner: Mr.Ramakant Sharma, Advocate.

For the respondents: Mr.Lovnesh Kanwar, Advocate, for respondents No.1 & 2.

Mr.M.S. Chandel, Advocate General with Mr. R.M. Bisht, Dy. Advocate General for respondent No.3 & 4.

Deepak Gupta, J.(Oral).

There are many disputed questions of fact which arise in this petition. According to the petitioner, he never received the communication rejecting his appeal. The petitioner also asserts that the draft of Rs.40,000/- was never received by him. In fact we had earlier directed the petitioner to produce its bank accounts and we found that this amount of Rs.40,000/- has not been credited to the account of the petitioner, which prima facie supports the version of the petitioner.

We are of the view that in future the respondent-Board will be well advised to send communications of such nature which affect vital rights of the parties

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Whether reporters of local Papers may be allowed to see the judgment?

Yes.

to run educational institutions by registered post instead of ordinary post.

In the present case, we also feel that the appeal of the petitioner has not been entertained on a wrong and hyper technical interpretation of the same. It may be true, that the appeal was not addressed to the appellate authority. However, the appeal was addressed to the Secretary of the Board and in the last lines of the communication, it was clearly stated that the Secretary may place the matter before the Board for consideration. We therefore, feel that the Secretary of the Board should have placed the appeal before the Board to take a decision in the matter and appeal should not have been rejected on this technical ground.

We could have sent the matter back to the Board to take a decision on the appeal. However, more than one and half years has elapsed and we do not want to put the clock back. We are also of the view that in view of the allegations and counter allegations made in the pleadings, it may be better for both the sides if some independent agency inspects the premises of the petitioner. Therefore, without going into the rival contentions, we are of the view that a strong case is made out for re-inspection of the petitioner's institution by an independent agency. This independent agency shall inspect the premises and find out whether the same conforms with the Himachal Pradesh Board of School Education Two Years J.B.T. Affiliation Regulations, 2004 (hereinafter referred to as the Regulation).

We accordingly direct the Registrar, H.P. University, Shimla, to constitute a team of three persons to carry out fresh inspection of the petitioner's institution. The petitioner shall formally apply to the Board for inspection within two weeks from today, for affiliation alongwith fresh inspection fee of rs.5,000/-. On such application being made by the petitioner, the Board shall send a communication alongwith a copy of the order to the Registrar of H.P. University, that said application has been made and he may constitute a committee. This communication shall be sent by registered post and by FAX within one week of the receipt of the application to the Registrar of H.P. University. A copy of the same shall also be endorsed to the petitioner and sent it by registered post.

The Registrar of the H.P. University shall ensure that the team is constituted and the process of inspection of the premises of the petitioner is completed on or before 31st May, 2007. In case the inspection team finds certain deficiencies, the same shall be pointed out to the petitioner positively on or before 7th June, 2007 and he shall remove the same by 15th June, 2007.

If, no deficiencies are pointed out by the inspection team constituted by the Registrar, then the respondent-Board shall consider the case of the petitioner for affiliation in accordance with law and communicate its decision to the petitioner by registered post latest by 15th June, 2007. In case deficiencies found are conveyed to the petitioner, he shall remove the same by 15th June, 2007 and convey to

the Board that he has removed the deficiencies by 21st June,2007. Respondent-Board shall finally verify whether the deficiencies have been removed and take a decision in this regard, latest by 28th June, 2007. In case it is found that the deficiencies have been removed than necessary consequences shall follow and order shall be conveyed to the petitioner by 10th July, 2007. If Board finds that the deficiencies are not removed than it shall also convey the order of rejection alongwith its observations by 10th July,2007.

Petition is disposed of.

C.M.P.No.1798 of 2006.

No order in view of the disposal of the main writ petition.

(Deepak Gupta)
Judge.

March 28, 2007.
(Pds)

(Surinder Singh)
Judge.